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State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

May 5, 2008

CERTIFIED RETURN RECEIPT
7005 2570 0000 4801 5228

Jeffery Sagars
Southwest Stone
2421 West 350 North
Hurricane, Utah 84737

Subject: Proposed Assessment for State (MC-2008-01-01), Southwest Stone, Limestone Mesa/Desert, M/053/059, Washington County, Utah

Dear Mr. Sagars:

The undersigned has been appointed by the Division of Oil, Gas & Mining as the Assessment Officer for assessing penalties under R647-7.

Enclosed is the proposed civil penalty assessment for the above referenced cessation order. Division Inspector, Lynn Kunzler, issued the cessation order on April 10, 2008. Rule R647-7-103 et. Seq. has been utilized to formulate the proposed penalty for the violations as follows:

- Violation 1 of 1 \$4950.00

Each worksheet specifically outlines how the violations were assessed.

By these rules, any written information which was submitted by you or your agent within fifteen (15) days of receipt of this (NOV / Cessation Order) has been considered in determining the facts surrounding the violation and the amount of this penalty.

Under R647-7-106, there are two informal appeal options available to you:

1. If you wish to informally appeal the fact of the (Cessation Order / NOV), you should file a written request for an Informal Conference within thirty 30 days of receipt of this letter. The Division Director or Associate Director will conduct this conference. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty. If you wish to review the proposed

penalty assessment, you should file a written request for an Assessment Conference within thirty (30) days of receipt of this letter. If you are also requesting a review of the fact of violation, as noted in paragraph 1, the assessment conference will be scheduled immediately following that review.

If a timely request for review is not made, the fact of the cessation order will stand, the proposed penalty (ies) will become final, and the penalty (ies) will be due and payable within thirty (30) days of the date of this proposed assessment. Please remit payment to the Division, mail c/o Vicki Bailey.

Sincerely,

A handwritten signature in cursive script, appearing to read "Thomas Munson", with a long horizontal flourish extending to the right.

Thomas Munson
Assessment Officer

Enclosure: assessment worksheets

cc: Vicki Bailey, Accounting
Vickie Southwick, Exec. Sec.

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2. What is the probability of the occurrence of the event, which a violated standard was designed to prevent?

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS: Inspector indicated the disturbance has already occurred.

3. What is the extent of actual or potential damage? RANGE 0-25

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 19

PROVIDE AN EXPLANATION OF POINTS: Operator cited less than 3 years ago for operating outside permitted area, and was warned 1-1/2 years ago of need to permit before expanding disturbed areas. 6 acres is nearly 50 percent of permitted area – assigned points to mid point of upper half of range.

B. ADMINISTRATIVE VIOLATIONS (Max 25pts)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement?
RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS n/a

PROVIDE AN EXPLANATION OF POINTS:

TOTAL SERIOUSNESS POINTS (A or B) 39

III. DEGREE OF FAULT (Max 30 pts.) (R647-7-103.2.13)

- A. Was this an inadvertent violation, which was unavoidable by the exercise of reasonable care? IF SO--NO NEGLIGENCE; or, was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care, the failure to abate any violation due to the same or was economic gain realized by the permittee? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Greater Degree of Fault

ASSIGN NEGLIGENCE POINTS 23

PROVIDE AN EXPLANATION OF POINTS: Assigned points in mid range – considering the operator had received a previous violation of the same nature and had been given warnings regarding expanding without the necessary approvals.

IV. GOOD FAITH (Max 20 pts.) (R467-7-103.2.14)

(Either A or B) (Does not apply to violations requiring no abatement measures)

- A. Did the operator have onsite, the resources necessary to achieve compliance of the violated standard within the permit area?
IF SO--EASY ABATEMENT

Easy Abatement Situation

- Immediate Compliance -11 to -20*
(Immediately following the issuance of the NOV)
- Rapid Compliance -1 to -10
(Permittee used diligence to abate the violation)
- Normal Compliance 0
(Operator complied within the abatement period required)
(Operator complied with condition and/or terms of approved Mining and Reclamation Plan)

*Assign in upper of lower half of range depending on abatement occurring the 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance, or does the situation require the submission of plans prior to physical activity to achieve compliance?

IF SO--DIFFICULT ABATEMENT

Difficult Abatement Situation

- Rapid Compliance -11 to -20*
(Permittee used diligence to abate the violation)
- Normal Compliance -1 to -10*
(Operator complied within the abatement period required)
- Extended Compliance 0
(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard of the plan submitted for abatement was incomplete)
(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? _____

ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS: Until violation is abated, good faith points cannot be awarded.

V. **ASSESSMENT SUMMARY (R647-7-103.3)**

NOTICE OF VIOLATION # MC-2008-01-01

I.	TOTAL HISTORY POINTS	<u>5</u>
II.	TOTAL SERIOUSNESS POINTS	<u>39</u>
III.	TOTAL NEGLIGENCE POINTS	<u>23</u>
IV.	TOTAL GOOD FAITH POINTS	<u>0</u>
	TOTAL ASSESSED POINTS	<u>67</u>
	TOTAL ASSESSED FINE	<u>\$ 4,950</u>